



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
LOS ANGELES SESSION
APRIL 6, 7, and 8, 2009**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on April 6, 7, and 8, 2009.

MONDAY, APRIL 6, 2009—1:30 P.M.

- (1) S154847 People v. Nguyen (Vince)
- (2) S116882 People v. Burgener (Michael Ray) [Automatic Appeal]
- (3) S050851 People v. Dykes (Ernest) [Automatic Appeal]

TUESDAY, APRIL 7, 2009—9:00 A.M.

- (4) S149178 Miller et al. v. Bank of America NT & SA (*Chin, J., not participating; Nares, J., assigned justice pro tempore*)
- (5) S155823 People v. Medina (Jose) et al.
- (6) S024833 People v. Farley (Richard Wade) [Automatic Appeal] (*Kennard, J., not participating; Nicholson, J., assigned justice pro tempore*)

1:30 P.M.

- (7) S150528 Smith v. Workers' Compensation Appeals Board, California Youth Authority et al.
- (8) S157197 Hughes v. Pair
- (9) S099231 In re Bolden (Clifford Stanley) on Habeas Corpus

WEDNESDAY, APRIL 8, 2009—9:00 A.M.

- (10) S155965 Arias v. Superior Court of San Joaquin County (Angelo Dairy et al., Real Parties in Interest)
- (11) S151615 Amalgamated Transit Union v. Superior Court of Los Angeles County (First Transit, Inc., et al., Real Parties in Interest)
- (12) S162156 In re S.B. et al.; Lassen Co. Dept. of Health and Human Services v. Sharyl S.

2:00 P.M.

- (13) S078664 People v. Avila (Joseph) [Automatic Appeal]
- (14) S157793 Guzman et al. v. County of Monterey et al.
- (15) S151370 Bonander et al. v. Town of Tiburon et al.

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

MONDAY, APRIL 6, 2009—1:30 P.M.

(1) *People v. Nguyen (Vince)*, S154847

#07-416 *People v. Nguyen (Vince)*, S154847. (H028798; 152 Cal.App.4th 1205; Superior Court of Santa Clara County; CC476520.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Can a prior juvenile adjudication of a criminal offense in California constitutionally subject a defendant to the provisions of the three strikes law (Pen. Code, §§ 667, subds. (b)–(i), 1170.12) although there is no right to a jury trial in juvenile wardship proceedings in this state?

(2) *People v. Burgener (Michael Ray)*, S116882 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(3) *People v. Dykes (Ernest)*, S050851 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

TUESDAY, APRIL 7, 2009—9:00 A.M.

(4) *Miller et al. v. Bank of America, NT & SA*, S149178 (*Chin, J., not participating; Nares, J., assigned justice pro tempore*)

#07-109 *Miller et al. v. Bank of America, NT & SA*, S149178. (A110137; 144 Cal.App.4th 1301; Superior Court of San Francisco County; 301917.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the

following issue: Does California law, which provides that a bank account into which public benefit funds or Social Security payments have been electronically deposited is exempt from attachment and execution, prohibit a bank from exercising its right to setoff as to charges—such as overdraft fees and insufficient fund fees—arising out of use of that same account?

(5) *People v. Medina (Jose) et al, S155823*

#07-434 *People v. Medina (Jose), et al., S155823.* (B189049; 153 Cal.App.4th 610; Superior Court of Los Angeles County; MA028151.) Petition for review after the Court of Appeal affirmed one defendant's judgment of conviction of criminal offenses and reversed two other defendants' judgments of conviction of criminal offenses. This case presents the following issue: Did the Court of Appeal err in holding the evidence insufficient to support defendants' convictions for murder and attempted murder under the natural and probable consequences doctrine based on the target offenses of assault and battery?

(6) *People v. Farley (Richard Wade), S024833 [Automatic Appeal] (Kennard, J., not participating; Nicholson, J., assigned justice pro tempore)*

This matter is an automatic appeal from a judgment of death.

1:30 PM

(7) *Smith v. Workers' Compensation Appeals Board, California Youth Authority et al., S150528*

#07-147 *Smith v. Workers' Compensation Appeals Board, California Youth Authority et al., S150528.* (B190054; 146 Cal.App.4th 1032.) Petition for review after the Court of Appeal annulled decisions of the Board. This case presents the following issue: Does Labor Code section 4607, which authorizes the Board to award attorney fees to an applicant who successfully resists a proceeding instituted by his or her employer to terminate a prior award for medical treatment, authorize the Board to award attorney fees to an applicant whose employer has not instituted proceedings to terminate medical care

but has refused to authorize medical treatment, thereby requiring the applicant to institute proceedings to obtain that treatment?

(8) *Hughes v. Pair, S157197*

#07-444 Hughes v. Pair, S157197. (B194307; 154 Cal.App.4th 1469; Superior Court of Los Angeles County; BC338385.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Did the Court of Appeal err in relying on definitions and standards under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) in evaluating plaintiff's claim for sexual harassment in violation of the Unruh Civil Rights Act (Civ. Code, § 51.9)?

(9) *In re Bolden (Clifford Stanley) on Habeas Corpus, S099231*

#04-128 In re Bolden (Clifford Stanley) on Habeas Corpus, S099231. Original proceeding. In this case, which is related to the automatic appeal in *People v. Bolden* (2002) 29 Cal.4th 515, the court issued an order to show cause limited to the following issues: Is petitioner entitled to relief from the judgment of death (1) on the ground of ineffective assistance of trial counsel based upon counsel's failure to specifically inquire on voir dire about a juror's prior acquaintance with the victim, or (2) on the ground of juror misconduct based upon the juror's (a) failure to disclose his prior relationship with the victim, (b) prejudgment of the penalty issue, or (c) failure or refusal to deliberate on penalty?

WEDNESDAY, APRIL 8, 2009–9:00 A.M.

(10) *Arias v. Superior Court of San Joaquin County (Angelo Dairy et al., Real Parties in Interest), S155965*

#07-412 Arias v. Superior Court of San Joaquin County (Angelo Dairy et al., Real Parties in Interest), S155965. (C054185; 153 Cal.App.4th 777; Superior Court of San Joaquin County; CV028612.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Must an employee who is suing an employer for labor law violations on behalf of himself

and others under the Unfair Competition Law (Bus. & Prof. Code, § 17203) bring his representative claims as a class action? (2) Must an employee who is pursuing such claims under the Private Attorneys General Act (Lab. Code, § 2699) bring them as a class action?

(11) *Amalgamated Transit Union v. Superior Court of Los Angeles County (First Transit, Inc., et al., Real Parties in Interest)*, S151615

#07-247 Amalgamated Transit Union v. Superior Court of Los Angeles County (First Transit, Inc., et al., Real Parties in Interest), S151615. (B191879; 148 Cal.App.4th 39; Superior Court of Los Angeles County; KC043962.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issues: (1) Does a worker’s assignment to the worker’s union of a cause of action for meal and rest period violations carry with it the worker’s right to sue in a representative capacity under the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698 et seq.) or the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.)? (2) Does Business and Professions Code section 17203, as amended by Proposition 64, which provides that representative claims may be brought only if the injured claimant “complies with Section 382 of the Code of Civil Procedure,” require that private representative claims meet the procedural requirements applicable to class action lawsuits?

(12) *In re S.B. et al.; Lassen Co. Dept. of Health and Human Services v. Sharyl S.*, S162156

#08-89 In re S.B. et al.; Lassen Co. Dept. of Health and Human Services v. Sharyl S., S162156. (C055838; 160 Cal.App.4th 21; Superior Court of Lassen County; J-4674, J-4675.) Petition for review after the Court of Appeal dismissed as premature an appeal in a dependency proceeding. This case presents the following issue: Is an order in a dependency proceeding—based upon a finding under Welfare and Institutions Code section 366.26, subdivision (c)(3), that termination of parental rights would not be detrimental to a minor and that the minor, although “difficult to place,” has a “probability for adoption”—appealable at the time the order is made?

2:00 P.M.

(13) ***People v. Avila (Joseph), S078664 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

(14) ***Guzman et al. v. County of Monterey et al., S157793***

#08-02 Guzman et al. v. County of Monterey et al., S157793. (H030647; 155 Cal.App.4th 645; Superior Court of Monterey County; M71543.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does the California Safe Drinking Water Act (Health & Saf. Code, § 116270 et seq.) impose specific mandatory duties upon the County of Monterey within the meaning of Government Code section 815.6 and thus expose the county to monetary liability for the breach of a duty to review and respond to water quality monitoring reports submitted by water systems within its jurisdiction?

(15) ***Bonander et al. v. Town of Tiburon et al., S151370***

#07-186 Bonander et al. v. Town of Tiburon et al., S151370. (A112539; 147 Cal.App.4th 1116; Superior Court of Marin County; CV052703.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Are the validation statutes (Code Civ. Proc., § 860 et seq.) the exclusive remedy available for challenging a special assessment levied under Streets and Highways Code section 10601 based on allegations that individual property owners are not receiving a special or proportionate benefit within the meaning of Proposition 218 (Cal. Const., art. XIII D, § 4, subd. (a))?